**Nursing Facility Task Force**

Meeting Minutes

September 20, 2019

2:00-4:00 pm

Date of meeting: September 20, 2019

Start time: 2:05 pm

End time: 4:00 pm

Location: McCormack Building, One Ashburton Place, 21st floor, Boston, MA 02108

Members present:

* Marylou Sudders – Executive Office of Health and Human Services (Chair)
* Rosalin Acosta – Executive Office of Labor and Workforce Development
* Ruth B. Balser – Mass. House of Representatives
* Richard Bane – Massachusetts Senior Care Association
* Elizabeth Chen – Executive Office of Elder Affairs
* Tim Foley – 1199SEIU
* Tara M. Gregorio – Massachusetts Senior Care Association
* Elizabeth Kelley – Department of Public Health
* Patricia D. Jehlen – Mass. Senate
* Barbara Mann – Massachusetts Senior Action Council
* Mathew J. Muratore – Mass. House of Representatives
* Patrick Stapleton – Sherrill House
* Daniel Tsai – MassHealth

Members absent:

* Naomi Prendergast – D’Youville Life and Wellness Community

**Proceedings**

Secretary Sudders called the meeting to order at 2:05 pm. She welcomed the members of the Task Force, explained its legal authority and charge, and reviewed the agenda for the meeting.

Secretary Sudders invited the members of the Task Force to introduce themselves.

Amy Kaplan, Program and Planning Implementation Manager at EOHHS, administered the oath of office to swear in the members of the Task Force. EOHHS Assistant General Counsel Karyn Brudnicki provided a presentation to the Task Force on the Open Meeting Law and the requirements of the Task Force members under the law. State Ethics Commission Public Education and Communications Division Chief David Giannotti provided an overview of Task Force Massachusetts’ conflict of interest and ethics regulations.

Undersecretary Lauren Peters provided an overview of the Massachusetts Nursing Home Industry, which detailed the $25M FY19 and $56M FY20 investment packages that EOHHS implemented to increase MassHealth rates for the nursing facility industry. Undersecretary Peters explained some of the demographic and economic forces impacting the nursing facility industry. Secretary Sudders added that nursing facilities are part of a continuum of long-term services and supports that MassHealth provides to low income and disabled persons in Massachusetts. Undersecretary Peters continued, explaining that increasingly individuals are opting to receive long term care services at home or in the community (e.g., personal care, home care), rather than in an institutional setting like a nursing facility. Undersecretary Peters said that long term reforms are required to address industry issues; increased MassHealth funding alone will not solve these challenges. For additional details, refer to the [**PowerPoint presentation**](https://www.mass.gov/files/documents/2019/09/24/nursing_task_force_092019_presentation_2.pdf) posted online to the [**Nursing Facility Task Force webpage**](https://www.mass.gov/orgs/nursing-facility-task-force).

Secretary Sudders said that she believes that the Task Force presents an opportunity to address some of the challenges outlined by Undersecretary Peters. Secretary Sudders reiterated that changes in MassHealth rates alone will not solve the problems faced by nursing facility industry.

Senator Jehlen asked if there is a correlation between low occupancy facility and the facility’s Medicaid occupancy share or the average quality rating. Assistant Secretary Tsai said that there is a lot of variation in the relationship. Secretary Sudders said that the Nursing Facility Task Force will provide to the public a list of the facilities that have closed over the last 2 years, as well as their Medicaid occupancy and their quality ratings.

Ms. Gregorio said she is thankful for the opportunity to participate in the Task Force. She asked the task force what the target occupancy rate for nursing homes should be, to allow for economic sustainability and innovation.

Secretary Acosta asked what the relationship is between closing nursing homes and opening assisted living residences. Secretary Chen answered, saying that the Task Force should focus on a broader continuum of long-term services and supports. EOEA and MassHealth help pay for tens of thousands of individuals to receive services in home and community-based settings.

Representative Balser asked what happens to nursing facility residents when a home closes. Ms. Kelley answered that there is a very orderly process to facilitate the transfer of nursing facility residents to another appropriate location, to ensure their safety and quality of care. The process involves communication with members, families, and providers and participation from DPH, EOEA, MassHealth and the Ombudsman. Recently, when Skyline’s 5 nursing facility locations closed, Secretary Sudders said that she appointed a receiver to ensure that the residents in those facilities were properly cared for.

Mr. Bane said that the Task Force should frame the issues as broader than MassHealth rates. He said, in the last few years there has been a direct correlation between stagnant MassHealth payment rates and lower facility quality metrics. Other issues such as a highly competitive and challenging labor market, and the influx of inexperienced out of state operators and have also contributed to decreasing quality. He said that the Task Force is not going to solve all of the industry’s problems, but that the Task Force can create a foundation for dialogue going forward. He said that the provider community is grateful to the legislature for the money appropriated to address the serious problems in the nursing facility industry. Mr. Bane said that, over time, the average acuity of nursing facility residents has greatly increased. As a result, the Task Force should focus on the quality of care and the patient experience.

Representative Muratore said that the Task Force should consider how the labor market impacts the nursing home industry. Certified nurses’ wages have not kept pace with increases in the minimum wage, he said. Labor costs represent a large share of nursing home budgets.

Mr. Foley agreed with Representative Muratore, saying that the labor force is an important factor for the Task Force to consider. He said he wants the Task Force to address low wages and benefits for nursing home workers. He also said that immigration policies are critically important. Mr. Foley said that closures and transfers of ownership are important.

Ms. Gregorio agreed with Mr. Foley, that the Task Force should study transfers of ownership. Secretary Sudders said that this should be a topic for the Task Force.

Assistant Secretary Tsai said that the challenges of the nursing facility industry are consistent across the country. He said that the payment system is highly outdated in Massachusetts and that the Task Force should consider how it can reform the rate structure to ensure quality care for residents.

Ms. Gregorio said that not all nursing home beds are created equally. For certain hard to serve populations (e.g., SUD), there is a low supply of beds. Representative Balser said that she would like for the Task Force to provide information on the supply of nursing homes that provide special services.

Secretary Sudders invited the members of Task Force to share their goals for the Task Force.

Senator Jehlen said that her goal is to preserve an adequate supply of quality services across the continuum. She said that the primary levers are rates and regulations. The Task Force should study how to provide quality care for low income people in Massachusetts.

Secretary Acosta thanked the other members of the Task Force for their comments related to work force. She noted that the EOLWD is working with the nursing facility industry on workforce initiatives through the Collaborative.

Secretary Chen said the nursing facility industry’s business model is challenged by a focus on fixed costs. The current and future generation of older adults demands more flexible and on-demand services. Secretary Chen said that Massachusetts should help individuals receive care in the places that they prefer and in locations that promote autonomy.

Responding to Secretary Chen, Mr. Bane said that the residents in his nursing homes are not able to be cared for in home and community-based settings because of the intensity of their ADL and cognitive needs. Mr. Bane said that a shift has already occurred to home and community-based settings and that there are a limited number of residents who can still shift out of nursing homes.

Representative Muratore suggested that the Task Force should consider if there are ways for nursing homes to transition to other lines of business. Secretary Sudders answered by saying that DPH promulgated rule changes to allow other services to be delivered at a nursing facility location, but only one facility executed on the option, opting to provide child day care services.

Secretary Sudders suggested that the Task Force meet at a monthly cadence. She said that there should be one session on the work force, one session focused on rebalancing the system and the proper occupancy rates (e.g., closures, transfers of ownership), and potentially a session about lessons from other Medicaid programs.

Secretary Sudders said that New York recently banned for-profit nursing homes. Responding, Senator Jehlen asked why for-profit operators are interested in buying nursing facilities, if they are not profitable. Mr. Bane said that there is no longer interest in for-profit operators to buy nursing facilities, according to the investor conferences he has attended.

Senator Jehlen said that she can provide a list of the proposed legislation related to Task Force topics to provide suggestions about potential legislation.

Representative Muratore said that based on the map on slide 6, there are some areas in Massachusetts that seem to be underserved. Secretary Sudders said that the Task Force should create a map that shows not only nursing facilities, but also ALRs and other related services, by country.

Mr. Stapleton said that the acuity and level of frailty of residents has increased over time

Secretary Sudders asked Mr. Bane if he can produce longitudinal data on the average age of nursing facility residents. Ms. Gregorio said that she has longitudinal data on ADLs.

Representative Balser asked how the Task Force can help promote even more people to live independently in home and community-based settings. Mr. Bane responded, saying that the number of people in nursing facilities has remained relatively constant over time, which suggests that there is real and consistent demand for nursing facility services.

Secretary Chen asked if there is a shift from short term to long term care in nursing facilities. Mr. Bane responded, saying that the proportion of long-term care stays has increased, due to changes in Medicare policy. Mr. Stapleton said that, among short-term stays, the length of stay has decreased from about 25 days to about 8 days. Ms. Gregorio said that the average length of stay in Massachusetts is the shortest of any state in the country and that Massachusetts has the highest hospital readmission rate. This is a serious concern for the industry.

Secretary Chen asked what the average length of stay is for a long-term resident in a nursing facility. Mr. Stapleton said that the average length of stay for a long-term care patient is 2 years. Mr. Bane said that the average length of stay has declined to about 13-14 months because the residents are increasingly entering the nursing facility at the very end stages of life.

Assistant Secretary Tsai asked the Task Force how to address nursing facilities with average occupancy rates below 80%. Mr. Bane, Ms. Gregorio, Mr. Stapleton, and Mr. Foley offered hypotheses related to artificial capacity, geography, and payer mix. Assistant Secretary Tsai said that Task Force can continue to investigate this question at future meetings.

In response to a request from Secretary Sudders regarding potential topics the Task Force might address during its remaining meetings, members proposed receiving presentations on the nursing facility work force, including average pay, staff turn-over, reimbursement rates and the continuum of services.

Secretary Sudders invited Ms. Gregorio, Secretary Acosta and Mr. Foley to coordinate a presentation on work force issues. She also invited Assistant Secretary Tsai to present on rates. She invited Mr. Bane or other members of the Task Force to present on transfers of ownership.

**Deliverables and next steps:**

* Suggested presentation topics:
  + Ms. Gregorio, Secretary Acosta and Mr. Foley to present on work force issues
  + Assistant Secretary Tsai to present on MassHealth rates
  + Mr. Bane and Ms. Kelley to present on transfers of ownership
* Data requests
  + A list of nursing homes that closed in the last 2 years, with their average occupancy, Medicaid occupancy share, average quality rating, and the ownership (i.e., non-profit or profit)
  + Number of people in Massachusetts who are 75+ and 85+ years old
  + A list of nursing homes that provide special services (e.g., SUD, pediatrics)
  + List of recently proposed legislation pertinent to the Nursing Facility Task Force’s scope
  + A map with nursing facilities, ALRs, and other home and community-based services, by county
  + Data on the average age and number of ADLs of the nursing facility population, over time

**Vote 1 to allow remote participation of Task Force members:** Secretary Sudders requested a motion to allow remote participation of Task Force members at future meetings of the Task Force. Mr. Bane introduced the motion, which was seconded by Ms. Gregorio and approved unanimously by all members present.

**Vote 2 to adjourn:** Secretary Sudders requested a motion to adjourn the meeting. Senator Jehlen introduced the motion, which was seconded by Assistant Secretary Tsai and approved unanimously by all members present.

The meeting was adjourned at 4:00 pm.